

Article 7: Elections, Campaign Finance and Lobbying

Division 29: San Diego Municipal Election Campaign Control Ordinance
(“*San Diego Municipal Election Campaign Control Ordinance*”
added 4–10–1973 by O–11034 N.S.)

§27.2901 Purpose and Intent

It is the purpose and intent of the *City Council* of the *City* of San Diego in enacting this division to preserve an orderly political forum in which individuals may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in municipal *elections*; to prohibit *contributions* by organizations in order to develop a broader base of political efficacy within the community; to limit the use of loans and credit in the financing of municipal *election* campaigns; to provide full and fair enforcement of all the provisions of this division; and to avoid the corruption or the appearance of corruption brought about when candidates for elective office accept large campaign contributions. This division is enacted in accordance with the terms of Section 5 of Article XI of the Constitution of the State of California and Articles II and III of the Charter of The *City* of San Diego. The provisions of Section 27.0102 of this article shall not apply to this division.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2902 Citation

This division shall be cited as the San Diego Municipal *Election* Campaign Control Ordinance.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2903 Definitions

Whenever the following words or phrases are used in this division:

“*Agent*” means a *person* who acts on behalf of any other *person*.

“*Broadcast station*” means any *person* who engages in the dissemination of radio communication as defined in the Federal Communications Act of 1934, including any cable television system franchised or otherwise licensed by the *City*.

“*Candidate*” has the same meaning as that term is defined in Section 27.0103.

“*City*” means the *City* of San Diego.

“*City-wide General Election*” has the same meaning as that term is defined in Section 27.0103.

“*City-wide Primary Election*” has the same meaning as that term is defined in Section 27.0103.

“*Clerk*” has the same meaning as that term is defined in Section 27.0103.

“*Committee*” has the same meaning as that set forth in California Government Code Section 82013(a) through (b).

“*Compensation*” means any economic consideration for services rendered. This includes reimbursement for expenses.

“*Contribution*”

(a) “*Contribution*” includes:

- (1) any *payment*, as defined in Section 27.2903; or
- (2) any loan, forgiveness of a loan, *payment* of a loan by a third party, or any enforceable promise to make a *payment*, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for *political purposes*; or unless the loan is received from a commercial lending institution in the ordinary course of business.
- (3) forgiveness of a debt or other obligation to pay for goods or services rendered, or reduction of the amount of a debt or other obligation to pay for goods or services rendered resulting from a settlement of a claim disputed by the *candidate* or *committee*, unless it is clear from the circumstances that the amount of the reduction was reasonably based on a good faith dispute; or
- (4) any *expenditure* made at the behest of a *candidate* or *committee* or *elective officer*, unless full and adequate consideration is received for making the *expenditure*; or

- (5) any purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events; or
 - (6) a *candidate's* own money or property used on behalf of his or her candidacy; or
 - (7) any granting of discounts or rebates not extended to the public generally, or any granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all *candidates* for the same office; or
 - (8) any *payment of compensation* by any *person* for the services or expenses of any other *person* if such services are rendered or expenses incurred on behalf of a *candidate* or *committee* without *payment* of full and adequate consideration; or
 - (9) any transfer of anything of value by a *committee* to another *committee*, unless full and adequate consideration is paid.
- (b) “*Contribution*” does not include:
- (1) the transfer of anything of value if the transfer is made pursuant to an enforceable promise, to the extent that the amounts have been previously reported as a *contribution*; or
 - (2) the cost of a meeting or fundraising event held in a home or office when the total cost of the meeting or event is no more than five hundred dollars (\$500); or
 - (3) any *payment* made by an individual for the individual’s own *travel expenses* if the *payment* is made voluntarily and without an understanding or agreement that they shall be directly or indirectly repaid to the individual; or
 - (4) any *independent expenditure*; or
 - (5) the rendering of volunteer services.

“*Controlled committee*” means any *committee* controlled directly or indirectly by a *candidate* or which acts jointly with a *candidate* or *controlled committee* in connection with the making of *expenditures*. A *candidate* controls a *committee* if the *candidate*, the *candidate's agent* or any other *committee* controlled by the *candidate* has a significant influence on the actions or decisions of the *committee*.

“*Council*” has the same meaning as that term is defined in Section 27.0103.

“*District General Election*” has the same meaning as that term is defined in Section 27.0103.

“*District Primary Election*” has the same meaning as that term is defined in Section 27.0103.

“*Election*” has the same meaning as that term is defined in Section 27.0103, but does not include *elections* of the San Diego Unified School District.

- (a) For the purpose of this division, a *District* or *City-wide Primary Election*, a *District* or *City-wide General Election*, and a *special election* are single and separate *elections*.

“*Elective Office*” has the same meaning as that term is defined in Section 27.0103, but does not include the office of a member of the governing board of the San Diego Unified School District.

“*Enforcement Authority*” has the same meaning as that term is defined in Section 27.0103.

“*Expenditure*” means a *payment*, a forgiveness of a loan, a *payment* of a loan by a third party, or an enforceable promise to make a *payment*, unless it is clear from the circumstances that it is not made for *political purposes*. An *expenditure* is made on the date the *payment* is made or on the date consideration, if any, is received, whichever is earlier.

“*Gift*” has the same meaning as that set forth in California Government Code section 82028.

“*Independent expenditure*” means any *expenditure* made by any *person* in connection with a communication which:

- (a) expressly supports or opposes the nomination, *election*, defeat or recall of a clearly identified *candidate*; or
- (b) expressly supports or opposes the qualification for the ballot, adoption or defeat of a clearly identified *measure*; or
- (c) taken as a whole and in context, unambiguously urges a particular result in a *City election*.

An *expenditure* that is made to or at the behest of a *candidate* or a *committee* is not an *independent expenditure*.

“*Measure*” has the same meaning as that term is defined in Section 27.0103 but does not include a recall *election*.

“*Payment*” means any *payment*, reimbursement, distribution, transfer, loan, advance, deposit, *gift* or other rendering of money, property, services or any other thing of value, whether tangible or intangible.

“*Person*” means any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, *committee*, labor union, or any other organization or group of *persons* acting in concert.

“*Petition*” has the same meaning as that term is defined in Section 27.0103.

“*Political purpose*” means the purpose of influencing or attempting to influence the action of the *voters* for or against the nomination, *election*, defeat or recall of any *candidate* or *elective officer*, for or against the qualification of a *City measure* for the ballot, or for or against the adoption or defeat of any *City measure*.

“*Special election*” has the same meaning as that term is defined in Section 27.0103, but does not include *elections* of the San Diego Unified School District.

“*Travel expenses*” has the same meaning as that term is defined in Section 27.4002.

“*Treasurer*” or “*Committee treasurer*” means the individual designated to perform the duties of *treasurer* under Section 27.2912.

“*Voter*” has the same meaning as that term is defined in Section 27.0103.

“*Vendor*” means any *person* who delivers goods or renders services to a *candidate* or *committee*, unless it is clear from the circumstances that they were not made for *political purposes*.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2904 Candidate and Committee Status; Duration

- (a) For purposes of this division, any individual who is a *candidate* retains the status of *candidate* until that status is terminated either:

- (1) pursuant to California Government Code section 84214; or
- (2) pursuant to Sections 27.2971(c) or 27.2971(d) of this Municipal Code.
- (b) For purposes of this division, any *committee* retains the status of *committee* until that status is terminated pursuant to California Government Code section 84214.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2905 Recall Elections

For purposes of this division, a recall *election* begins on the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article; and, a recall *election* occurs whether *voters* cast ballots pertaining to the recall or not.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2911 Duty to Have Campaign Treasurer

Every *candidate* and every *committee* shall have a treasurer. A *candidate* may designate him- or herself as *treasurer*. Only an individual may be designated as a *treasurer*.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2912 Authority of Treasurer

No *expenditure* may be made by or on behalf of a *committee* without the authorization of the *treasurer*. No *contribution* may be accepted or *expenditure* made by or on behalf of a *committee* at a time when the office of *treasurer* is vacant.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2921 Campaign Contribution Checking Account

- (a) Every *candidate* and every *committee* shall establish one campaign *contribution* checking account at an office of a bank or other financial institution providing checking account services located in the *City* of San Diego.
- (b) Upon opening of an account, the name of the bank or other financial institution and account number thereof shall be filed with the *City Clerk* on the same forms and in the time and manner required by California Government Code sections 81000 *et seq.*

- (c) Upon opening of an account, all *contributions* of money or checks, or anything of value converted by such *candidate* or *committee* to money or a check, made to a *candidate*, to an individual on behalf of a *candidate*, to a *committee* supporting or opposing a *candidate* or a *City measure*, or to an individual on behalf of a *committee* supporting or opposing a *candidate* or a *City measure* shall be placed in the *candidate's* or *committee's* checking account within twenty business *days*.
- (d) *Contributions* must include the information required by California Government Code section 84211. Any information that has not been provided shall be requested, in writing, by the campaign *treasurer* within ten business *days* of receipt of the contribution. No contribution shall be deposited to a campaign contribution checking account without the receipt by the candidate or committee of that information.
- (e) Any *contribution* not deposited within twenty business *days* shall be returned to the contributor as soon as possible after the twentieth business *day*, but no later than twenty-five business *days* after receipt of the *contribution*.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2922 Disbursements

Funds shall be disbursed from a campaign *contribution* checking account established pursuant to Section 27.2921 only by check signed by the *candidate* or by the *candidate's* or *committee's* campaign *treasurer* or designated *agents* of the campaign *treasurer*.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2923 Petty Cash Fund

A petty cash fund may be established for each campaign bank account under the following conditions:

- (a) No more than \$100 may be held in the petty cash fund at any one time.
- (b) No *expenditure* that totals \$100 or more may be made from the petty cash fund.
- (c) *Expenditures* from a petty cash fund are deemed to be *expenditures* from the campaign bank account.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2924 Liquidation of Accounts

In the event that *payment* has been made for all goods and services furnished in connection with the campaign of a *candidate* or *committee*, a campaign *contribution* checking account may be liquidated by paying the remaining balance in the checking account to the *candidate* or to the *committee* for use in any lawful manner pursuant to California Government Code sections 81000 *et seq.*
(Amended 9-12-2000 by O-18846 N.S.)

§27.2925 Accounting

- (a) In addition to any other requirements of this division, every *candidate* or *committee* establishing a campaign *contribution* checking account pursuant to this division shall maintain a record of each of the following:
 - (1) any *contribution* offered to and refused by the *candidate* or *committee*; and
 - (2) any *contribution* received by the *candidate* or *committee* and returned to the contributor; and
 - (3) any *contribution* received by the *candidate* or *committee* and deposited into the campaign *contribution* checking account; and
 - (4) any disbursement made from the campaign *contribution* checking account.
- (b) The records required by Section 27.2925(a) shall include, but not be limited to, all of the following:
 - (1) the name and address of the contributor; and
 - (2) the amount of the *contribution*, and the date on which it was received or offered; and
 - (3) if the *contribution* is made by check, a legible photocopy of the check; and
 - (4) if the *contribution* offered or received consists of cash, an indication that cash was offered or received, and a legible photocopy of the bank deposit slip indicating that the cash *contribution* was deposited into the campaign *contribution* checking account; and

- (5) legible photocopies or originals of all bank records pertaining to the campaign *contribution* checking account; and
 - (6) if a *contribution* is made by the *candidate* to his or her own campaign, a statement disclosing the source of the funds; and
 - (7) if a *contribution* is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the *contribution*, and the basis for the estimate; and
 - (8) for each disbursement made from or check drawn on the campaign *contribution* checking account, the canceled check (if requested), the bank statement showing the disbursement, the name of the payee of each check, an itemized record of the goods or services for which each check is issued or disbursement made, and legible photocopies or originals of any invoices, bills, or other supporting documents for which funds were disbursed.
- (c) The records required by Section 27.2925 (a) and (b) shall be kept by the *candidate* or *committee treasurer* establishing the account for a period of four years following the date that the campaign statement to which they relate is filed.
- (d) Each *candidate* and *committee* shall deliver, on demand, to any public officer having authority to enforce this division a written authorization permitting the officer to have access to all records pertaining to the campaign *contribution* checking account.
- (e) Each *candidate* and *committee* shall, on demand, make available to any public officer having authority to enforce this division all records required by this division to be maintained by the *candidate* or *committee*.

(Retitled and amended 9-12-2000 by O-18846 N.S.)

§27.2931 Campaign Statements and Disclosures

Each *candidate* and *committee* shall file campaign statements in the time and manner required by California Government Code sections 81000 *et seq.* Compliance with the disclosure requirements of California Government Code sections 81000 *et seq.* is deemed to be compliance with this section.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2940 Lawful Use of Campaign Funds by a Committee

Uses of campaign funds held by any *committee* formed in accordance with this division shall be governed by California Government Code sections 81000 *et seq.*

(Added 9-12-2000 by O-18846 N.S.)

§27.2941 Contribution Limits

- (a) It is unlawful for a *candidate*, *committee* supporting or opposing a *candidate*, or individual acting on behalf of a *candidate* or *committee* to solicit or accept from any other individual a *contribution* which will cause the total amount contributed by that other individual in support of or opposition to a *candidate* to exceed two hundred fifty dollars (\$250) for any single *election*.
- (b) It is unlawful for any individual to make to any *candidate* or *committee* supporting or opposing a *candidate* a *contribution* that will cause the total amount contributed by that individual in support of or opposition to a *candidate* to exceed two hundred fifty dollars (\$250) for any single *election*.
- (c) Nothing in this section is intended to limit the amount of his or her own money or property that a *candidate* may contribute to, including loan to, or expend on behalf of the *candidate's* own campaign.
- (d) The *contribution* limits contained in Section 27.2941(b) apply to the total *contributions* of an individual to a *candidate*, whether to the *candidate's controlled committee* or to a *committee* that makes *independent expenditures* in support of that *candidate*.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2943 Terms and Disclosure of Loans

- (a) A *candidate* who makes a loan to his or her *committee* from his or her personal funds is not required to charge interest on that loan, but may charge a rate of interest comparable to or less than that which would be charged by a commercial lending institution for loans not made for *political purposes*.
- (b) Every *candidate* and *committee* shall disclose loans in the same time and manner required by California Government Code sections 84211, 84216 and 84216.5.

(Retitled and amended 9-12-2000 by O-18846 N.S.)

§27.2944 Payment and Disclosure of Payment for Goods or Services

- (a) An *expenditure* is made on the date the *payment* is made or the date that the *candidate* or *committee* receives the goods or services, whichever is earlier.
- (b) Every *candidate* and *committee* shall disclose *expenditures* in the same time and manner required by California Government Code section 84211. An *expenditure* which has been incurred but not paid during a reporting period shall be disclosed as an accrued expense.
- (c) Except as provided in Section 27.2945, each *candidate* or *treasurer* of a *controlled committee* that supports or opposes a *candidate* shall pay, or cause to be paid, each *vendor* upon receipt of the *vendor's* goods or services in whole or in part.
- (d) Except as provided in Section 27.2945, the *treasurer* of a *committee* that makes *independent expenditures* in support of or in opposition to a *candidate* shall pay, or cause to be paid, each *vendor* upon receipt of the *vendor's* goods or services in whole or in part.

(Retitled and amended 9-12-2000 by O-18846 N.S.)

§27.2945 Extensions of Vendor Credit

- (a) *Vendors* may extend credit to *candidates* or *committees* in the ordinary course of business in the same manner as extended to *persons* for other than *political purposes*.

- (b) For leases or rentals of one month or more, *candidates* or *committees* that rent or lease real or personal property for *political purposes* shall pay at least one month's rent in advance of taking possession. Thereafter, *candidates* or *committees* shall pay rent in advance.
- (c) For leases or rentals of less than one month, *candidates* or *committees* that rent or lease real or personal property for *political purposes* shall pay in full in advance.
- (d) A *candidate* or *committee* that accepts goods or services for *political purposes* on credit under Section 27.2945(a), shall pay for those goods or services in full no later than ninety calendar *days* after receipt of a bill or invoice and in no event later than ninety calendar *days* after the last calendar *day* of the month in which the goods were delivered or the services were rendered.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2946 Continuing Violations

A *candidate* or *committee treasurer* violates Section 27.2945(b), (c) or (d) whenever the *candidate* or *committee treasurer* fails to pay any rent or for goods or services in full within the time periods set forth in Section 27.2945. Each and every calendar *day* any obligation remains partially or wholly unpaid after the time periods set forth in Section 27.2945 constitutes a separate violation.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2947 Prohibitions and Limits on Contributions From Organizations

- (a) It is unlawful for a *candidate*, *committee*, *committee treasurer*, or other *person* acting on behalf of a *candidate* or *committee* to accept a *contribution* from any *person* other than an individual.
- (b) It is unlawful for a *person* other than an individual to make a *contribution* to any *candidate* or *committee*, except to a *committee* that is organized solely for the purpose of supporting or opposing the qualification of a *City measure* for the ballot, or the adoption or defeat of a *City measure*, and the *committee* pursues no other purpose.
- (c) For purposes of Section 27.2947(a) and (b), the term “*committee*” includes any *committee* that makes *independent expenditures*, in addition to any *controlled committee*.

- (d) Notwithstanding Section 27.2947(a), a *committee* may accept a *contribution* from any *person* if the *committee* is organized solely for the purpose of supporting or opposing the qualification of a *City measure* for the ballot, or the adoption or defeat of a *City measure*, and the *committee* pursues no other purpose.
- (e) For purposes of Section 27.2947(b) and (d), a recall *election* is not an *election* on a *City measure*.
- (f) For purposes of this section, a *contribution* made from a personal or family trust account is considered a *contribution* made by an individual.
(Amended 9-12-2000 by O-18846 N.S.)
(Amended 9-7-2004 by O-19312 N.S.)

§27.2948 Obligation to Return Contributions

- (a) If a *candidate*, *committee*, or *committee treasurer* is offered a *contribution* the acceptance of which would constitute a violation of this division, the *candidate*, *committee* or *committee treasurer* shall refuse the offer.
- (b) If a *candidate*, *committee*, or *committee treasurer* receives a monetary *contribution* the acceptance of which would constitute a violation of this division, neither the *candidate*, *committee*, nor *committee treasurer* shall be subject to any penalty for receipt of that *contribution* if the *candidate*, *committee*, or *committee treasurer*:
 - (1) does not deposit the *contribution* into the campaign *contribution* checking account; and,
 - (2) returns the *contribution* within twenty business *days* of the calendar *day* the *contribution* was received.
- (c) If a *candidate*, *committee*, or *committee treasurer* deposits into the campaign *contribution* checking account a monetary *contribution* the acceptance of which constitutes a violation of this division, the *candidate*, *committee*, or *committee treasurer* shall within ten calendar *days* of the date of the *candidate*'s, *committee*'s or *committee treasurer*'s discovery of the violation provide in writing to the *City Clerk* all facts pertaining to the *contribution*, including but not limited to:

- (1) a copy of any check(s), draft(s), or other instrument(s) by which the *contribution* was made; and
 - (2) if made in cash, a report of the amount and denominations of currency tendered and a legible photocopy of the bank deposit slip; and
 - (3) if by wire or other electronic fund transfer, a legible printout or photocopy of the transaction; and
 - (4) a report of the means of tender, delivery or confirmation of the *contribution* (e.g. U.S. Postal Service or private mail, courier service, in *person*, etc.); and
 - (5) a report of the full name and street address of the contributor.
- (d) The *candidate* or *committee treasurer* shall promptly deliver from available funds, if any, an amount equal to any monetary *contribution* constituting a violation of this division that is deposited into the campaign *contribution* checking account to the *City Clerk* and made payable to the *City Treasurer*. The *City Treasurer* shall deposit any *contribution* or equivalent amount he or she receives under Section 27.2948 into the *City's* General Fund.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2949 Prohibition of Anonymous Contributions

Total anonymous *contributions* to a *candidate* or *committee* which exceed in the aggregate two hundred dollars (\$200) with respect to a single *election* shall not be used by the *candidate* or *committee* for whom it was intended. To the extent that total anonymous *contributions* exceed two hundred dollars (\$200) the excess shall be paid promptly, from available campaign funds, if any, to the *City Clerk* and made payable to the *City Treasurer* for deposit in the General Fund of the *City*.

(Retitled and amended 9-12-2000 by O-18846 N.S.)

§27.2950 Prohibition of Contributions in the Name of Another Individual

- (a) It is unlawful for any individual, or combination of individuals acting jointly, to make directly or indirectly a *contribution* in a name other than the name by which he or she or they are identified for legal purposes.

- (b) It is unlawful for any individual, or combination of individuals acting jointly, to make directly or indirectly a *contribution* in the name of another individual or combination of individuals.
- (c) It is unlawful for any individual, or combination of individuals acting jointly, to make directly or indirectly a *contribution* in his or her or their name of:
 - (1) anything belonging to another individual; or
 - (2) anything received from another individual on the condition that it be used as a *contribution*.
- (d) When it is discovered by the campaign *treasurer* that a *contribution* has been received and deposited in violation of Section 27.2950, the campaign *treasurer* shall pay promptly from available campaign funds, if any, the amount received in violation of this section. That amount shall be delivered to the *City Clerk* and made payable to the *City Treasurer* for deposit in the General Fund of the *City*.

(Retitled and amended 9-12-2000 by O-18846 N.S.)

§27.2951 Campaign Expenditures Uncontrolled by Candidate or Committee

Persons or organizations not subject to the control of a *candidate* or *committee* but who make *independent expenditures* for or against a *candidate* or *committee* shall indicate clearly on any material published, displayed or broadcast that it was not authorized by a *candidate* or *committee*, when such *expenditures* in whole or part would have been covered by the provisions of this ordinance if they were subject to the control of a *candidate* or *committee*.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2952 Advertising Rates; Service Fees and Charges

To the extent that any *person* sells space in any newspaper or magazine or sells time on a *broadcast station* to a *candidate* or *committee* or performs other services in connection with the campaign of the *candidate* or for or against the *measure*, the charges made for the use of such space or time shall not exceed or be less than the charges normally made for comparable use of such space or time by other users thereof.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2954 Suppliers of Goods and Services — Disclosure of Records Required

It is unlawful for any *person* who supplies goods or services or both goods and services to a *candidate* or *committee* for use in connection with the campaign of a *candidate* or for or against a *measure* to refuse knowingly to divulge or disclose to the *Enforcement Authority* his or her record of any *expenditures* made by the *candidate* or *committee* in *payment* for such goods or services or both.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2955 Mass Mailings

(a) It is unlawful for any *candidate* or *committee* to send a mass mailing for the purpose of supporting or opposing a *City candidate* or *City measure* unless:

- (1) the name, street address, and city of the *candidate* or *committee* sending the mailing are shown on the outside of each piece of mail in the mass mailing in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size; and
- (2) each mailing includes the words “paid for by” immediately followed by the name, street address, and city of that *candidate* or *committee* in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size.

- (b) For purposes of subsection (a), a post office box may be stated in lieu of a street address if the organization’s address is a matter of public record with the Secretary of State.
- (c) If the sender of a mass mailing is a *controlled committee*, the name of the *candidate* controlling the *committee* shall be included in addition to the information required by subsection (a).
- (d) For purposes of this section, a “mass mailing” means more than 200 substantially similar pieces of campaign literature sent within a single calendar month.

(Added 9-7-2004 by O-19312 N.S; effective 10-7-2004)

§27.2956 Telephone Communications

- (a) It is unlawful for any *candidate* or *committee* to engage in live or recorded telephone communications with 500 or more individuals or households for the purpose of supporting or opposing a *City candidate* or *City measure* unless the communications include the words “paid for by” immediately followed by the name of the *candidate* or *committee* paying for the communications.
- (b) The statement required pursuant to subsection (a) shall be clearly audible and at the same general volume as the rest of the telephone message.
- (c) If the telephone communication is a recording, the statement required pursuant to subsection (a) shall be played at the same speed as the rest of the message.
- (d) If the telephone communication is paid for by a *controlled committee*, the name of the *candidate* controlling the *committee* shall be included in addition to the information required by subsection (a).
- (e) Any *candidate* or *committee* paying for a live or recorded telephone communication subject to this section shall maintain a transcript of the message being communicated and a record of the number of calls for each message.

(Added 9-7-2004 by O-19312; effective 10-7-2004)

§27.2961 Duties of City Clerk

In addition to other duties required of him under the terms of this division, the *City Clerk* shall:

- (a) Supply appropriate forms and manuals prescribed by the state Fair Political Practices Commission. These forms and manuals shall be furnished to all *candidates* and *committees*, and to all other *persons* required to report.
- (b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of state law.

- (c) Notify promptly all *persons* and known *committees* who have failed to file a document in the form and at the time required by state law.
- (d) Report apparent violations of this division and applicable state law to the *Enforcement Authority*.
- (e) Compile and maintain a current list of all statements or parts of statements filed with the office pertaining to each *candidate* and each *measure*.
- (f) Cooperate with the *Enforcement Authority* in the performance of the duties of the *Enforcement Authority* as prescribed in this division and applicable state law.
(Amended 9-12-2000 by O-18846 N.S.)

§27.2963 Enforcement Authority — Duties, Complaints, Legal Action, Investigatory Powers

- (a) Any *person* who believes that a violation of any portion of this Division has occurred may file a complaint with the *Enforcement Authority*.
- (b) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this Division. The *Enforcement Authority* may demand and shall be furnished records of campaign *contributions* and expenses at any time.
- (c) The *Enforcement Authority* shall determine whether required statements and declarations have been filed as required and, if so, whether they conform with the requirements of this Division.
- (d) The Enforcement Authority may elect to enforce the provisions of this Division administratively pursuant to Chapter 2, Article 6, Division 4, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction.
(Amended 2-11-2002 by O-19034 N.S.)

§27.2971 Penalties

- (a) Any *person* who violates any part of this Division, or who counsels, aids, abets, advises, or participates with another to commit any such violation, is guilty of a misdemeanor and is subject to the penalties set forth in Chapter 1 of this Code.
- (b) In addition to being subject to the penalties set forth in Chapter 1 of this Code, any *person* found guilty of violating Sections 27.2941 or 27.2947, or both, shall be required to forfeit the amount received in violation of this Division and pay over these funds to the *City Treasurer* for deposit in the *City's* General Fund.
- (c) If, after an *election*, a *candidate* or office holder is convicted in a court of law of a violation of any provision of this Division, the *election* to office of such *candidate* or office holder shall be void and the office shall become vacant immediately upon the later of the following two dates:
 - (1) The date of the *candidate* or office holder's conviction; or
 - (2) the date the *candidate* would have taken office, if the *candidate* is not an incumbent. In the event of a vacancy resulting from application of Section 27.2971(c), the vacancy shall be filled in accordance with the procedures set forth in the *City Charter* for the filling of vacant *City* offices.
- (d) If a *candidate* is convicted in a court of law of violating any provision of this Division any time prior to the *election*, the candidacy shall be terminated immediately and the *person* shall be no longer eligible for *election*.
- (e) Any *person* convicted in a court of law of a violation of any provision of this Division shall be ineligible to hold a *City elective office* for a period of five years from and after the date of the conviction.
- (f) Any limitation of time prescribed by law within which prosecution for a violation of any part of this Division must be commenced shall not begin to run until the *City's* discovery of the violation.

(Amended 2-11-2002 by O-19034 N.S.)

§27.2973 Effect of Violation on Certification of Election Results

- (a) The *City Clerk* shall not issue any certificate of nomination or *election* to any *candidate* until his or her campaign statements required in Section 27.2931, or, if no campaign statement is required, the written declaration permitted under Section 84212 of the California Government Code have been filed in the form and at the place required by California Government Code sections 81000 *et seq.*
- (b) The *City Council* shall not adopt a resolution declaring any *candidate* to be nominated or elected until such statements or declaration have been filed in the form and at the place required of the *candidate* in this division.

(Amended 9-12-2000 by O-18846 N.S.)

§27.2974 Rules of Construction

This division shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this division which does not directly affect the jurisdiction of the *City Council* or the *City* to control campaign *contributions* and *expenditures* shall avoid the effect of this division.

(Amended 9-12-2000 by O-18846 N.S.)